

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

**JOHNNY S., a minor child, by and through his parents
and next friends DARLENE R. and JUAN S.,**

Plaintiff,

vs.

No. 1:13-cv-00027-MCA-KK

POJOAQUE VALLEY SCHOOL DISTRICT, et al.

Defendants.

**PLAINTIFF'S MOTION TO SET FAIRNESS HEARING
and MEMORANDUM IN SUPPORT THEREOF**

Plaintiff, by counsel, hereby moves for a setting at the Court's earliest opportunity for a fairness hearing to approve the settlement of all disputed matters between Plaintiff and Defendants. Plaintiff further requests that the fairness hearing be closed to the public and to all parties, with the exception of Plaintiffs and their representatives, and the court-appointed Guardian ad Litem. Plaintiff requested Defendants' consent to this motion on March 21, 2015, and again on March 26, 2015 and counsel for Defendants has not responded.

1. Plaintiff is a developmentally adult. He currently receives disability benefits due to his developmental disabilities.
2. Prior to this litigation, the state court had appointed Darlene R. and John S., Sr. as guardians for Johnny S.
3. By separate motion, Plaintiff's counsel has moved this Court for the appointment of a Guardian ad Litem for purposes of making recommendations to the Court regarding whether to approve the mediated settlement. Defendants' counsel has consented to the appointment of Sara

Crecca, Esq., as Guardian ad Litem.

4. Plaintiff proposes that the fairness hearing in this matter should take approximately one hour or less of the Court's time to review the settlement and proposed distribution.

5. Plaintiff requests that the fairness hearing be conducted by either the United States District Judge or the United States Magistrate Judge, at the Court's discretion.

THEREFORE, Plaintiffs respectfully requests that this Court set this matter for a fairness hearing.

Respectfully submitted,

THE LAW OFFICES OF NANCY L. SIMMONS, P.C.

Electronically submitted

Nancy L. Simmons
120 Girard SE
Albuquerque NM 87106
Co-counsel for Plaintiff

I hereby certify that on the 1st day of April, 2015, I filed the foregoing electronically through the CM/ECF system, which caused the all parties to be served by electronic means, as more fully reflected on the Notice of Electronic Filing.

electronically submitted

Nancy L. Simmons